



IPAMS
Independent
Petroleum
Association
of
Mountain
States

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June 5, 1998



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Mr. David S. Guzy
Chief, Rules and Publications Staff
Royalty Management Program
Minerals Management Service
P. O. Box 25165, MS 3021
Denver, CO 80225-0165

RE: Electronic Reporting; Proposed rulemaking
63 F.R. 17133; April 8, 1998

Dear Mr. Guzy:

The Independent Petroleum Association of Mountain States (IPAMS) is pleased to have the opportunity to submit comments on the above-referenced rulemaking. IPAMS represents the full spectrum of independent producers, including the smallest federal lessees. As such, we are keenly aware of the economic impact of various regulations and policy directives, since the financial position of these small lessees is often more profoundly affected by such mandates than that of larger lessees.

The Minerals Management Service's proposed rule requiring that royalty and production reports be submitted electronically is one such rulemaking that has the potential to severely impact the bottom line of a number of IPAMS members.

While IPAMS can appreciate MMS's desire to improve the productivity, efficiency and effectiveness of government programs, we do not believe it should come at the expense of the smallest federal lessees. In surveying our members, most of the larger companies – and many of the smaller companies – already file their reports electronically. Several others are in the process of switching to electronic reporting at the present time, or have plans to do so in the near future. However, a good number of IPAMS members simply do not have the lease acreage or production volumes to warrant the purchase of a computer, or a significant change in

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the way their business is conducted, merely to be able to file their federal royalty and production reports electronically.

MMS acknowledges that converting to electronic reporting would require a resource investment that it asserts would eventually be recouped through a reduced reporting burden. MMS suggests that companies that do not own computers can either purchase computers and software or employ reporting services to make the reports on their behalf at a "reasonable cost". But IPAMS questions why reporters should be required to incur such additional costs – particularly those reporters that submit few lines per month – in order to satisfy MMS's desire to streamline its workload.

MMS estimates in the preamble to the proposed rule that a reporter's monthly reporting burden would be reduced by 50 percent or more if not currently reporting electronically. However, in the instance of a number of IPAMS members, this is not necessarily the case. IPAMS has a number of members who routinely submit between four and 100 lines each month, including both the royalty and production reports. These members do not believe that reporting electronically will reduce their reporting burden. To the contrary, they believe that converting to electronic reporting will increase their reporting burden because they will be forced to manage their accounting processes in a manner different than they are currently doing. They believe it will be a costly, time-consuming burden to convert to electronic reporting. The number of leases and the number of lines they report monthly simply do not constitute sufficient grounds to warrant such an expensive conversion. What MMS is attempting to do is shift the cost of data entry to the reporter.

Moreover, MMS intends to penalize reporters who cannot or will not switch to electronic reporting by assessing a fixed fee per report line for noncompliance. It is unclear from the proposed rule whether this provision applies only to new reporters who fail to submit reports electronically within the established 90-day period, or also to current reporters who fail to comply.

IPAMS questions the need to assess a fee for noncompliance. MMS states that the fee will be assessed to compensate the government for the *increased costs* incurred as a result of a reporter's noncompliance. However, MMS is already processing paper reports. Given the fact that this proposal will likely serve as an impetus to encourage additional reporters to switch to electronic reporting, it is only logical that the government's costs to process paper reports will decrease, rather than increase. In addition, with the fewer data elements that will be required under the revised reporting format recommended by the Royalty Policy Committee and the Reengineering Team,

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MMS's data entry burden will be reduced even further. Therefore, IPAMS does not believe any assessment for noncompliance is justified.

IPAMS is also concerned that MMS permits no exception to the proposed rule. Especially for small lessees who are trying to produce from marginal wells in a time of extreme price volatility, it is unconscionable that MMS would propose a rule that will undoubtedly increase costs for those lessees whose bottom line is already jeopardized.

Finally, IPAMS does not believe there is any legal basis for MMS to require electronic reporting. None is cited in the proposed rule, other than a vague reference to "various mandates to use new technologies to improve...programs".

IPAMS recommends MMS withdraw the proposed rule. IPAMS is not opposed to MMS seeking ways to encourage reporters to convert to electronic reporting. However, given the fact that there is no legal basis for the proposal, the fact that the majority of lines are already reported electronically, and the fact that the reporting format will be revised in the near future, it does not seem justifiable to mandate electronic reporting at this time.

If MMS is unwilling to withdraw the proposed rule, IPAMS recommends MMS at least establish a reasonable threshold – in a range between 50 to 100 lines per month including both production and royalty reports – below which reporters would be exempt from compliance. In addition, MMS should establish a means by which reporters can seek exception from the regulation based on various circumstances and a demonstration that compliance would create an unacceptable hardship.

Thank you for your consideration of our comments. Please contact me if you have any questions or if you would like to discuss our comments in further detail.

Sincerely,

A handwritten signature in black ink, appearing to read "Carla J. Wilson".

Carla J. Wilson
Director of Tax and Royalty